

July 7, 1999

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

850 Union Bank of California Building  
900 Fourth Avenue  
Seattle, Washington 98164  
Telephone (206) 296-4660  
Facsimile (206) 296-1654

**REPORT AND DECISION**

SUBJECT: Department of Development and Environmental Services File No. **L97P0041**

**ASPEN MEADOWS**  
Preliminary Plat Application

Location: West of Issaquah-Pine Lake Road, generally between  
232<sup>nd</sup> Avenue Southeast and 236<sup>th</sup> Avenue Southeast and  
between Southeast 53<sup>rd</sup> Street and Southeast 48<sup>th</sup> Street

Applicant: Polygon Northwest, *represented by* **Robert Johns**, Attorney At Law  
701 Fifth Avenue #3600, Seattle, WA 98104  
Telephone: (206) 292-4900 Facsimile: (206) 223-0152

Department: DDES/Land Use Services Division, *represented by*  
**Kim Claussen** and **Pete Dye**  
900 Oakesdale Ave SW 900 Oakesdale Ave SW  
Renton, WA 98055 Renton, WA 98055  
Telephone: (206) 296-7167 Telephone: (206) 296-7185  
Facsimile: (206) 296-7051 Facsimile: (206) 296-7051

Department: King County Department of Transportation, *represented by*  
**Dick Etherington**, 821 Second Avenue, Seattle, WA 98104  
Telephone: (206) 689-4709 Facsimile: (206) 689-4750

**SUMMARY OF DECISION:**

Department's Preliminary:	Approve, subject to conditions
Department's Final:	Approve, subject to conditions
Examiner:	Approve, subject to conditions

**PRELIMINARY MATTERS:**

Application submitted:	October 3, 1997
Notice of complete application:	October 3, 1997 (revised October 16, 1997)

EXAMINER PROCEEDINGS:

Hearing Opened: June 16, 1999  
Hearing Closed: June 16, 1999

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES ADDRESSED:

- Downstream impacts
- Pedestrian trails
- Road improvements
- Traffic impacts mitigation

SUMMARY:

The plat application is approved. Satisfactory mitigation of development impacts will require coordination with other nearby projects and the City of Sammamish.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. **General Information.**

Owner: Mickey MacLean  
c/o Barghausen Consulting Engineers  
18215 – 72<sup>nd</sup> Avenue South  
Kent, WA 98032  
(425) 251-6222

Developer: Polygon NW Company  
P.O. Box 1349  
Bellevue, WA 98009  
(425) 822-7700

Engineer: Barghausen Consulting Engineers  
18215 – 72<sup>nd</sup> Avenue South  
Kent, WA 98032

(425) 251-6222

STR: 22-24-06  
Location: West side of Issaquah-Pine Lake Road, generally between 232<sup>nd</sup> Avenue SE and 236<sup>th</sup> Avenue SE and between SE 53<sup>rd</sup> Street and SE 48<sup>th</sup> Street.  
Zoning: R-8 P  
Acreage: 25.41 acres  
Number of lots: 53 lots  
Density: Approximately 2 units per acre  
Lot Size: Ranges from approximately 8,340 to 16,400 with on lot of 11 acres  
Proposed Use: 52 single-family detached lots and 1 lot for a 100 unit multi-family project.  
Sewage Disposal: Sammamish Plateau Water and Sewer District  
Water Supply: Sammamish Plateau Water and Sewer District  
Fire District: King County Fire District No. 10  
School District: Issaquah No. 411  
Complete Application Date: October 3, 1997 (revised October 16, 1997)

1. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the June 16, 1999 public hearing are found to be correct and are incorporated herein by reference. The LUSD Staff recommends approval of the application, subject to conditions.
2. Polygon Northwest has filed a preliminary plat application to subdivide 25.41 acres into 52 lots for single-family residential development, with an additional lot planned for 100 units of multi-family development. Access for the 100 unit multi-family development will be directly to Issaquah-Pine Lake Road SE, while the single-family lots will share road access along 236<sup>th</sup> Avenue SE with the plat of Pineview adjacent to the north. The new 236<sup>th</sup> Avenue SE access road will exit to SE 48<sup>th</sup> Street, which in turn intersects with Issaquah-Pine Lake Road SE at a location approximately 250 feet further east. A joint hearing on the Aspen Meadows and Pineview plats was conducted by the Hearing Examiner's Office on June 16, 1999.
3. A Mitigated Determination of Non-Significance under SEPA was issued for the Aspen Meadows application on April 7, 1999. The MDNS contains conditions designed to mitigate project impacts in the areas of traffic and water quality. The MDNS was appealed by two area residents, James Stanton and Barbara Hawley. By the time of the preliminary plat hearing both SEPA appeals had been withdrawn.
4. Aspen Meadows will contribute peak hour traffic to the already congested arterial system that serves the south end of the Sammamish Plateau. As documented within the Applicant's traffic report, the project will contribute 30 peak hour vehicle trips constituting at least 20% of project traffic to the following intersections that will operate at level of service F during the project's horizon year: Issaquah-Fall City Road/Issaquah-Pine Lake Road during the P.M. peak hour; Issaquah-Fall City Road/East Lake Sammamish Parkway during the A.M. peak; the I-90 ramps at Front Street in Issaquah during both the A.M. and P.M. peaks; and Issaquah-Pine Lake Road/SE 48<sup>th</sup> Street during the A.M. peak.

5. With the exception of the Issaquah-Pine Lake Road/SE 48<sup>th</sup> Street intersection near the plat, the preceding intersections are not anticipated to obtain significant relief from congestion problems until the completion further east of the full Sunset Interchange with I-90 and the associated North and South Spar connections. When completed these new facilities will provide an alternative arterial connection between I-90 and the Issaquah-Fall City/Issaquah-Pine Lake Road intersection. While the amount of relief that can be expected from the Spar connection has not been precisely quantified in relation to cumulative new traffic impacts generated by Aspen Meadows and previously vested pipeline projects, the Aspen Meadows MDNS explicitly assumes that completion of the Spar projects will permit the above-referenced intersections to operate at an acceptable level of service. This optimistic scenario was questioned by the City of Issaquah within a February 8, 1999 comment letter, but the City has been mollified by a settlement agreement with Polygon that provides mitigation payments both to the City and to WSDOT for project impacts. It is anticipated that the payment to WSDOT will be expended for improved signal synchronization at the I-90 ramps.
6. The level of service impact at the Issaquah-Pine Lake Road/SE 48<sup>th</sup> Street intersection is predicated upon Aspen Meadows and other pipeline projects further west contributing traffic to the unsignalized intersection in the A.M. peak hour when left turn movements from SE 48<sup>th</sup> Street onto Issaquah-Pine Lake Road experience substantial delay. Although the Applicant's traffic study initially relied for an improved level of service upon a County CIP to widen Issaquah-Pine Lake Road with a two-way refuge lane, construction of this CIP has been pushed back a further four years to 2003, and the MDNS provides an alternative solution based on private construction of turn lanes immediately adjacent to the intersection. Mr. Stanton has correctly pointed out that the Issaquah-Pine Lake Road CIP is also necessary to alleviate a high accident rate along this stretch of road. He questions whether with the impending incorporation of the City of Sammamish, responsibility for implementation of the CIP may now be uncertain. While Mr. Stanton's observations concerning the importance of the Issaquah-Pine Lake Road CIP are undoubtedly correct, future funding decisions regarding its construction are subject to negotiation between the County and the new City within an interlocal agreement. This preliminary plat review process has no authority to affect the outcome of those negotiations.
7. The Applicant's traffic study also considered the possibility of creating a road connection from SE 48<sup>th</sup> Street through Aspen Meadows to the Overdale neighborhood immediately south. This option was rejected because such a connection would invite cut-through traffic with adverse impacts to the neighborhood residential road system. On the other hand, the Applicant has agreed to implement Mr. Stanton's proposal that a pedestrian pathway be provided at the plat's southwest corner to 232<sup>nd</sup> Avenue SE within Overdale. A condition to such effect has been added to the preliminary approval.
8. Drainage issues underlay the Hawley SEPA appeal. The plat property is divided into nearly equal eastern and western basins, and a drainage tract is proposed at the plat's northwest corner that would release flows into an off-site area with ill-defined drainage features and a history of flooding. The Applicant has not been able to obtain drainage easements from downstream property owners, so no upgrades of the downstream conveyance system are likely to occur. A SWM variance issued December 1, 1998 proposes to limit release from the northwest R/D facility to volumes equaling the estimated capacity of the existing off-site swale.

Based on private arrangements between Polygon and affected property owners, the Hawley appeal was withdrawn.

#### CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.
2. The conditions of approval recommended herein, including dedications and easements, will provide improvements which promote legitimate public purposes; are necessary to serve the subdivision and are proportional to its impacts; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

#### DECISION:

The preliminary plat of Aspen Meadows as revised and received on March 22, 1999 is APPROVED, subject to the following conditions of final approval:

The conditions are those stated in the Department of Development and Environmental Services June 16, 1999 revised staff report, with the following modifications:

8. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
  - a. During preliminary review the applicant submitted a road variance application regarding KCRS 2.20 which specifies a maximum limit of 100 dwelling units served on a single residential street (See Variance File No. L98V0051). SE 48<sup>th</sup> Street is currently a dead end road serving greater than 100 residential homes. As indicated in the decision letter dated September 3, 1998 by the County Road Engineer, the variance request has been denied. The Road Engineer notes that the preliminary plats of Cambria and Highland Creek Estates have been approved by King County with a condition to construct a secondary access road serving the neighborhood. To comply with the circulation requirements, the Aspen Meadow subdivision shall not be recorded until the secondary access route through Cambria and Highland Creek Estates is constructed.
  - b. The applicant's road variance also requested approval to exceed the maximum allowed length for a permanent cul-de-sac. This request was denied by the County Road Engineer. In order to comply with the cul-de-sac length requirements of KCRS 2.08, the right-of-way and construction of Road B shall be extended to the west property line. The roadway shall be improved as an urban subaccess street with a barricade placed at the western terminus.

- c. 236<sup>th</sup> Avenue SE is proposed as an off-site access road extending into the site from SE 48<sup>th</sup> Street. The roadway shall be improved as a full width urban subcollector street.

Off-site public road right-of-way shall be acquired and dedicated prior to or concurrent with plat recording.

- d. The existing roadway on SE 48<sup>th</sup> Street provides limited pedestrian facilities and also limits the available sight distance at the proposed intersection with 236<sup>th</sup> Avenue SE. To provide adequate roadway facilities, the following improvements shall be made to neighborhood collector standards unless otherwise approved by DDES:
    - (1) The existing vertical curve on SE 48<sup>th</sup> Street, located west of 236<sup>th</sup> Avenue SE, shall be reconstructed to comply with County standards for stopping sight distance and provide entering sight distance for the proposed intersection at 236<sup>th</sup> Avenue .
    - (2) All reconstructed portions of SE 48<sup>th</sup> Street may be improved to meet rural standards except that an urban design with sidewalk shall be provided on the south side of the roadway extending easterly from 236<sup>th</sup> Avenue to the Issaquah-Pine Lake Road.
    - (3) Northbound and southbound turn lanes shall be provided at the intersection with the Pine Lake Road as determined by the King County Roads Division.
    - (4) A geotechnical report shall be submitted with the road design plans to evaluate the requirements for construction of a retaining wall located along the steep bank on the south edge of SE 48<sup>th</sup> St.
  - e. The on-site roads A, B, and C shall be improved to urban subaccess standards.
  - f. As required by KCRS 5.03, street trees should be included in the design of all road improvements.
  - g. In accordance with KCRS 9.05, the applicant shall submit a traffic control plan for development construction. The plan shall address methods to minimize construction impacts and improve traffic flow along SE 48<sup>th</sup> Street. A haul route shall be included to address routing, hours of operation, signage, flagging, and daily maintenance.
  - h. Street illumination shall be provided at intersections with Issaquah-Pine Lake Road in accordance with KCRS 5.05 .
11. Within the last sentence of this condition, the phrase “the centerline of” is deleted.
16. This condition is deleted.

17. (Add the following paragraph at the beginning of this condition). The proposed subdivision shall comply with the sensitive areas ordinance as outlined in KCC 21A.24. Permanent survey marking, and signs as specified in KCC 21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g. with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.
18. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc. as shown on Attachment 5).
- a. An overall conceptual recreation space plan shall be submitted for review and approval by DDES, with the submittal of the engineering plans. This plan shall include location, area calculations (minimum 10,000 sq. ft or greater usable area, within a 13, 000 sq. foot tract), dimensions, and general improvements. The approved engineering plans shall be consistent with the overall conceptual plan. A fee in lieu of recreation space shall be provided for the remaining area (approximately 10,000 square feet) not provided for on-site and/or the applicant has the option to utilize the fee in lieu of to provide upgrades to the recreation space, subject to the review and approval of DDES and King County Parks.
  - b. A detailed recreation space plan (i.e., landscape specs, equipment specs, etc.) consistent with the overall conceptual plan, as detailed in item a., shall be submitted for review and approval by DDES and King County Parks and Recreation prior to or concurrent with the submittal of the final plat documents.
  - c. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
21. At the southwest corner of the plat, the Applicant shall construct a pedestrian pathway connecting Road B to 232<sup>nd</sup> Avenue SE. The design and location of the pathway shall be approved by DDES and comply with the requirements of KCRS 3.08.B as modified by this Condition.  
The pathway shall be 7 feet wide, located within a separate tract under homeowner's association control, and subject to a recorded easement permitting public access. Any fencing along pathway boundaries shall not screen pedestrians from view.
22. The Applicant has negotiated agreements with neighboring property owners for the imposition of additional development conditions (see Exhibits 23, 24 and 25). Because such conditions are not within the regulatory authority of King County, their enforcement remains a private matter.

ORDERED this 7<sup>th</sup> day of July, 1999.

---

Stafford L. Smith, Deputy  
King County Hearing Examiner

TRANSMITTED to the parties and interested persons shown on the attached list.

### NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) *on or before July 21, 1999*. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council *on or before July 28, 1999*. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

### MINUTES OF THE JUNE 16, 1999 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT & ENVIRONMENTAL SERVICES FILE NO. L97P0041 – ASPEN MEADOWS:

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing and representing the Department were Kim Claussen, Pete Dye and Aileen McManus. Participating in the hearing and representing the Applicant were Robert Johns and Gary Young. Other participants in this hearing were Shupe Holmberg, Mark Wilson, James Stanton, Joanne Pullen, Hal Grubb and Barbara Hawley.

The following exhibits were offered and entered into the record:

- |                |  |
|----------------|--|
| Exhibit No. 1  | Department of Development and Environmental Services File No. L97P0041   |
| Exhibit No. 2  | Department of Development and Environmental Services Preliminary Report, dated June 16, 1999.  |
| Exhibit No. 3  | Application dated October 3, 1997 (revised October 16, 1997)   |
| Exhibit No. 4  | Environmental Checklist dated October 3, 1997.   |
| Exhibit No. 5  | Mitigated Declaration of Non-Significance dated April 7, 1999.   |
| Exhibit No. 6  | Affidavit of Posting indicating May 28, 1999 as date of posting and June 1, 1999 as the date the affidavit was received by the Department of Development and Environmental Services. (revised hearing date). |
| Exhibit No. 7  | Plat Map dated March 22, 1999.   |
| Exhibit No. 8  | Land Use Map 556E; 559E; 578W; 579W.   |
| Exhibit No. 9  | Assessors Maps NE & NW 22-24-6.  |
| Exhibit No. 10 | Wetland study by Watershed Dynamics, dated August, 1997  |
| Exhibit No. 11 | Buffer enhancement plan by Habitat Technologies (dated July 6, 1998)   |
| Exhibit No. 12 | Wildlife study by Habitat Technologies, dated January 26, 1998   |
| Exhibit No. 13 | Traffic studies by Transpo, dated November 21, 1997; January 8, March 6, March 31 and December 22, 1998.   |
| Exhibit No. 14 | City of Issaquah letter dated February 8, 1999   |



- Exhibit No. 15      Issaquah settlement agreement dated June 9, 1999
- Exhibit No. 16      SWM variance decision—L98V0050 (attachment 3 of staff report)
- Exhibit No. 17      KCRS variance decision—L98V0051 (attachment 4 of staff report)
- Exhibit No. 18      Conceptual park-rec plan received April, 1999
  
- Exhibit No. 19      SEPA appeal—Barbara Hawley, received April 27, 1999
- Exhibit No. 20      Revised recommendations
- Exhibit No. 21      Stanton letter, received June 15, 1999
- Exhibit No. 22      Letter signed by Barbara Hawley, withdrawing SEPA appeal, dated June 15, 1999
- Exhibit No. 23      Letter to Ralph McBride from Gary Young, dated June 2, 1999
- Exhibit No. 24      Letter to Robert and Diane Schmidt from Gary Young, dated June 14, 1999
- Exhibit No. 25      Letter from Barghausen Engineers to Kim Claussen, dated June 14, 1999
- Exhibit No. 26      Handwritten addition to Condition No. 17 of DDES staff report
- Exhibit No. 27      Preliminary plat map of Aspen Meadows, showing colored layout, dated April 8, 1998.